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|| PUBLIC COMMENT

FOR: Dept. Social Services, California (RE: Ord.0324-02)
2024-43 CRLB 1387 (Reg.24,43-Z,10.25.24)

Opn. of Robert van Leeuwen

There is no doubt creation of the 'Home Visiting Program' (HvP) illustrates our state dedication to family. An average 9% of all american families live at or below the poverty line (P60-277 US Census 25,26-32(2022)), and it is identifiably clear the vast majority of which may be designated racial and ethnic minorities (iBid). As a father, I know the gravity of what a parent may face, and it is that knowledge, and evidence of our nations impoverished youth that leads me to concur with the HvP's persistence. However,I do so with pause.

It is said that roughly 700 children are removed from the custody of their parents EVERY SINGLE DAY (51 Fordham Urb.Lj. Online 1,10(2024)). This is the national result of social regulation which places the families of more than 3.5 million children under investigation annually - almost every one part of that 9% in poverty (76 Stan L Rev 1255,1275(2024)).

What's more, 60% of all reports in California are without merit (Unfounded)(27 W.St.U.L.Rev 181,203-04 & n77(2000);In RE John W.,41 Cal App 4th 961,964-65(1996)[notes 80% in divorce / separation])... and with successful reunification in the state dipping below the 50% mark (60 SantaClara L Rev 151,163(2020)), the warning should be clear: Once removal happens, it may not un-happen (ibid). That is OUR fault.

-- For the childrens sake, we must acknowledge the adverse effect of state intrusion into home and family as wholly unacceptable. That the conditioning of such intrusion, without notice of its potential, and based on ones poverty - is, by all manner, unethical.

In its present form, the HvP has yet to define sufficient limitations restricting the potential for adverse intervention or otherwise address the lack of notice given on the scope of reporting, siezure, and rights affected by entry or acceptance of service. Present notice requirement scant, curiously even irrelevant (Cal W&I § 11330.6(d)(2);§ 51101.212(*)), there's a deep concern the HvP may be so easily regarded as but a vieled expansion of some state controlled adoption model.

The idea that we may be walking the most vulnerable - the uneducated, unskilled, even illiterate - into a more complex vulnerability with smiles and nods.. under guise of 'Voluntary Participation' or 'extended benefit' is disheartening.

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* Undesignated References to Regulation (2024 Reg Text 29100)

While the state may very well have an interest in the investigation of neglect - such is not the HvP's purpose. Yet it is societies views of neglect that frame the criteria for its determination. "Inadequate Housing", for example, was the listed "circumstance effecting removal" for 10% of all the children entering U.S. foster care between the years 2016 and 2019 (ACS.HHS.gov/statistics). An additional 34% were removed based solely on one parents habitual use of alcohol or drugs, irregardless of the effect on or relation to the childs own welfare (iBid). Thats 44% off the bat that meet the criteria for 'intervention' under the HvP (Cal W&I § 11330.7(b)(6);See § 51140.316 / § 51140.317 [same]).

-- It is quite apparent that society deems the effects of poverty "neglect", and these are the very standards that drive the HvP (§ 51010.5 ["Evidence Based" means federal 'HoMVEE' criteria];Cal W&I § 11330.6(e)(2)[same]). A program, which, by its very nature imparts selective engagement, places a specific class under increased scrutiny and surviellance, and inherently results in greater sanction or removal - is a program that effectively criminalizes association. Where that association is poverty (the only class adopted by the HvP) any notice failing to allow even the remote consideration of that threat, can only result in uninformed consent.

The HvP bypasses any need for cause to enter ones home (Y.W.-B.,265 A3d 602,627-28(2021)). Worse, it doesn't require a trained Social Worker (Cal W&I § 11330.7(d)["nurse[,]other person"];§ 51101.3 [same])... and it is their subjectivity and

discretion (ie,Opinion/Biases) which serve as a standard for measuring compliance and fitness. From diet and nutrition to interaction with your child (Cal W&I § 11330.7(b)&(c);also § 51140.3) it is the visitor who decides how far (See 22 CUNY L. Rev 124,131-33(2019)[NY atty. desc. HvP in NY, every room, cabinet, drawer];also Woodward,912 F3d 1278,1279(2019)[desc.an involuntary 'body check' on a child]).

There is literally nothing in the HvP regulation set to prevent the worst from happening. In theory, the HvP can apply to ANY CHILD (Cal W&I § 11330.6(a)(2)["and"+"or"]), IN OR OUT of CalWorks (id @ (c)(2)(A)(ii) / (B)(ii)) at ANY TIME (id @ (a)(2)["24 months...whichever is later"]) for ANY REASON (id @ (e)(2)[Federal criteria...])...and that's not even addressing the scope or limitation of the 'Immigration/Customs Reporting Service' (§ 51140.32 [immigration refferals]).

-- Even where as here, it is understood that this sort of flexibility is intended to allow provision of aid to those who need it most... who's to say, for example, that a parents decision to teach a child the realities of gender as a natural consequence (ie,not a choice), or denying affirming care does not constitute "neglect" in the eyes of the state? For anyone who has ever experienced an arbitrary act, nothing is more certain. Humans are of a fallable lot, and an open-ended provision does little to stave off uncertainty or malevolence.

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* Mandatory Reporters Reference (Cal Pen § 11164*)

The lack of defined, immutable limitations is a system bound by honor... and an honor system in the hands of the state is akin to a game of russian roulette (Koger,152 W.Va. 274,279(1968)[desc of the game]). Likewise, nothing is more frightening than a program premised on voluntary participation that, by its own provisions, may lock the door on the way in (Cal W&I § 11330.6(d)(5)["evidence" continues visits]).

Normally, "the state does not have the constitutional or legal authority to give a 3rd party absolute, and possibly arbitrary, veto" power over a parents fundamental rights (133 Yale Lj. 419,480(2023)[article, child & parental rights])... but the HvP circumvents this issue and allows the state - not the parent - to decide a childs best interests. Pitting public aid against the right of a parent, the sanctity of the home, or the child from removal, is no fair gambit. When offered any assistance, it is unlikely the needy would feel 'free' to say no (94 Colum. L.Rev 193,233(1994)).

One of "societies most fundamental institution[s]" is the 'Family' (Trimble,430 US 762,769(1977)), which is "deeply rooted in this nations history and tradition" (Moore,431 US 494,503-04(1977)). It "acts as an important check on the power of the state to mold citizens in its own image" (67 Tul. L.Rev 955,959(1993)), and destruction of the parent-child or family relationship is thus considered among the highest forms of state violence (60 SantaClara L.Rev 151,174(2020)), Yet we seem to be idle in our protection of it.

With such staggering numbers of unfounded abuse - we can't deny that unwarranted removals are occurring. We must therefore take care not to perpetuate this narrative that all children need protection from their families... Such should always be the exception, not the norm. Families are torn, parents and children suffer, and "the infliction of psychological harm by government intrusion may be worse than that which intrusion was intended to prevent" (29 Fam Lq. 121,139 n.40(1995)). The financial burden of removals alone justifies abstention from such practices. To put it simply, intrusion has no place in a society based on the idea of limited government. The right of parental autonomy and the institution of 'Family' are both concepts deserving our protection.

-- No government, even with all the training in the world, can control the subjectivity and human nature of its actors. Where we seek change in others, we must do so with guidance and positive influence - not intrusion.

As justice 'Thurgood Marshall' said:

> "Would [you] sanction, [without] cause, compulsary visits to all american homes for the purpose of discovering child abuse? Or are [you] to hold [a] mother[,] because she is poor[,] more likely to injure or exploit her children? Such [an] approach [would] be dangerously at odds with the tenets of our democracy" -- (400 US 309,342-43)

This dissent, however, is of context. As a society we are morally obligated and cannot afford to ignore poverty or the effects it has on our nations youth. They are our future. The HvP, despite its faults, was enacted in good faith... not by a

act of hate or maleficence. It serves a valid purpose and is guided by the thousands of honest, compassionate, and merciful workers of our state social services.

THEREFORE I concur with the HvP's persistence, advocating for the: (1) amendment of notice requirements; (2) limiting of home-entry to trained social workers; (3) moving all services by other reporters (Cal Pen § 11164*) to neutral locations, and (4) the implementation of appropriate restrictions to prevent unwarranted intrusions.

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Robert Michael Vanleeuwen

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